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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,929	02/05/2001	Stephen Clifford Goss	13-10-19-4-3-4-16-9-10	3243

7590 02/19/2004  
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EXAMINER

BEHULU, ALEMAYEHU

ART UNIT PAPER NUMBER

2682

DATE MAILED: 02/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/777,929

Applicant(s)

GOSS ET AL.

Examiner

Alemayehu Behulu

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 16-21 is/are pending in the application.  
4a) Of the above claim(s) 7-15, 22-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I (claims 1-6 and 16-21) in Paper No. 6 is acknowledged.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 16-19 are rejected under 35 U.S.C. 102<sup>b</sup>(a) as being anticipated by Alperovich (U.S. Patent No. 5,970,403), as cited by the applicant.

Regarding claim 1, Alperovich teaches in a cellular mobile communications system (figure 2) a method of charging for a call comprising the steps of maintaining a record of channel usage for areas (column 2, lines 3-9 and column 3, lines 7-51), comprising of one or more cell sites/sectors (figure 2), responsive for detecting of low occupancy of radio channels in an area and notify mobile stations in area for call origination at less than normal charge (column 2, lines 10-24 and column 3, lines 33-65), and making billing record to allow billing processor to make a lower charge for a call (column 4, lines 5-20).

Regarding claims 2 and 17, Alperovich teaches that the lower cost offered to only a subset of mobile stations served by cellular mobile telecommunications systems (figure 3, numbers 100, 110, 220, 140, 230 and column 2, lines 14-30).

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Regarding claims 3 and 18, Alperovich teaches that the subset of mobile stations served is defined by a class of service (figure 3, number 140 and column 5, lines 14-30).

Regarding claim 4, Alperovich teaches that turning on lower charge when the channel occupancy below a first threshold (column 2, lines 10-18).

Regarding claim 16, Alperovich teaches in a cellular mobile telecommunications system (figures 5 and 6) apparatus for charging for a call comprising, means for storing data specifying the a number of radio channels available (column 3, lines 20-32), processor for controlling mobile telecommunications system, and for making billing entries for calls on system (column 4, lines 5-20), processor means operative under the control of a program for detecting low occupancy of radio channels (column 2, lines 10-24 and column 3, lines 33-52), controlling notification of mobile stations that calls can be originated and completed for charge that is less than normal charge for an originated call (column 3, lines 53-65), responsive to receipt of an originated call from one of the notified mobile stations (column 3, lines 53-column 4, lines 8). Regarding claim 19, Alperovich teach the apparatus of claim 16, wherein said processor means are further operative under the control of said program for triggering said lower charge by detection of an occupancy of radio channels in said area that is below a first threshold (column 2, lines 3-28).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 5, 6, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich (U.S. Patent No. 5,970,403) further in view of Sawyer (U.S. Patent No. 5, 794, 140).

Regarding claims 5 and 20, Alperovich teaches the method of claim 1. However, Alperovich fails to teach lower charge is turned off for calls originated after area reaches a radio channel occupancy above a second threshold. But, Sawyer teaches lower charge is turned off for calls originated after area reaches a radio channel occupancy above a second threshold (figure 3, numbers 102, 106, 130, 132, 136 and column 11, lines 23-35). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Alperovich (U.S. Patent No. 5,970,403) with Sawyer (U.S. Patent No. 5, 794, 140) in order to have a service billing system that adapts to a system loading in real time manner.

Regarding claims 6 and 21, Alperovich teaches the method of claim 1. However, Alperovich fails to teach a service provider defining cell sites and thresholds of area. But, Sawyer teaches a service provider defining cell sites and thresholds of area (figure 1 and column 2, lines 30-49, column 8, column 4, lines 59-column 5, lines 13, lines 29-48). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Alperovich (U.S. Patent No. 5,970,403) with Sawyer (U.S. Patent No. 5, 794, 140) in order to provide incentive to subscribers which in turn increase revenue as suggested by Sawyer.

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*Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hanon U.S. Patent No. 6,577,717 Broadcasting of Different Tariff Periods in a  
Telephone System

LaDue U.S. Patent No. 6,088,431 Method for Transmitting Voice or Data in a Wireless  
Network Depending on Billing Account Status

Amirijoo U.S. Patent No. 6,119,012 Method and System for Dynamically and Periodically  
Updating Mobile Station Location Data in Telecommunications Network


Weinberger et. al. U.S. Patent No. 5,519,769 Method and System for Updating a Call  
Rating Database

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Alemayehu Behulu whose telephone number is 703-305-4828.  
The examiner can normally be reached on 8 AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the  
organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is 703-305-3900.

AB

 2-17-2004

NGUYEN T. VO  
PRIMARY EXAMINER